

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILE COPY

-----X
DARRYL T. COGGINS,

Plaintiff,

DOCKET NO.: 07-CV-3624
(JFB)(AKT)

- against -

COUNTY OF NASSAU, NASSAU COUNTY POLICE
DEPARTMENT, POLICE OFFICER JAMES VARA , in
his individual and official capacity, and POLICE OFFICER
CRAIG BUONORA , in his individual and official capacity,
and JOHN DOES "1-10", in their individual and official capacity,

Defendants.
-----X

**DECLARATION OF VALERIE M. CARTRIGHT
IN SUPPORT OF PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND MOTION TO DISMISS**

I, VALERIE M. CARTRIGHT declare under the pains and penalties of perjury, pursuant to 28 U.S.C. Section 1746, that the following statements are true and correct, to the best of my knowledge:

1. I am one of the attorneys representing Plaintiff DARRYL T. COGGINS. I submit this Declaration in support of Plaintiff's Memorandum of Law and Supporting Papers in Opposition to Defendants' Motion for Summary Judgment and Motion to Dismiss the Claims of Plaintiff.

2. Attached as Exhibit A is a true and accurate copy of *Nassau County Police Department Latent Fingerprint Section Report*, dated October 18, 2004

3. Attached as Exhibit B is a true and accurate copy of transcript of Grand Jury Testimony conducted on March 17, 2005.

4. Attached as Exhibit C is a true and accurate copy of Coggins' *Demand the District Attorney Present Witnesses and Submit Charges Against Police Officer Vara*, dated March 17, 2005

5. Attached as Exhibit D is a true and accurate copy of *Indictment No. 0663N-05*
6. Attached as Exhibit E is a true and accurate copy of *Floral Park Police Department Narrative of assistance to Nassau County Police Department foot pursuit, on October 9, 2004*
7. Attached as Exhibit F is a true and accurate copy of *Certificate of Disposition Dismissal of Indictment No.: 0663N-05.*
8. Attached as Exhibit G is a true and accurate copy of *Nassau County District Court Felony Complaint*, dated October 10, 2004.
9. Attached as Exhibit H is a true and accurate copy of *Plaintiff's Third Party Complaint dated November 7, 2012..*
10. Attached as Exhibit I is a true and accurate copy of *the Court's June 20, 2008 decision on Defendant Buonora's Motion for Summary Judgment/Motion to Dismiss.*

Dated: Hempstead, New York
July 26, 2013

Respectfully submitted,

LAW OFFICES OF
FREDERICK K. BREWINGTON

By:

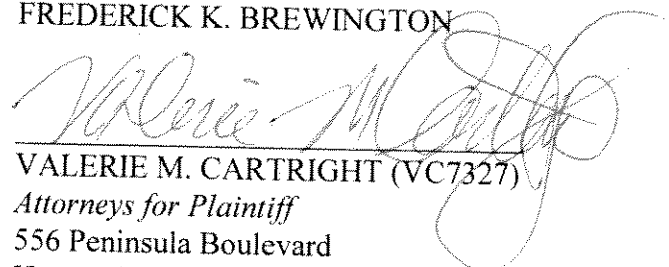

VALERIE M. CARTRIGHT (VC7327)
Attorneys for Plaintiff
556 Peninsula Boulevard
Hempstead, New York 11550
(516) 489-6959

EXHIBIT A

MAR. 3. 2005 12:34PM

NO. 220

P. 1/2

SUPPLEMENTARY

POLICE DEPARTMENT, COUNTY OF NASSAU, NEW YORK

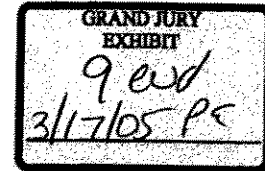
LATENT FINGERPRINT SECTION REPORT

PDCN 350

DATE 10/18/2004

REFERENCE Case Report Number 204 CR 82564 (Possession of Weapon)
 Detective Barnych - Third Squad

SUBJECT OF EXAMINATION One Magazine
 Five .380 Auto Cartridges from Magazine



*RESULTS The above evidence was processed and evaluated and had no identifiable latent impressions present.

The evidence was placed in the Main Office Evidence Locker Number 52 at 1915 Hours, this date directed to the Forensic Evidence Bureau Firearms Section.

☐ *Evidence will be returned.

☐ *Forward completed PDCN Form 106 - Property Bureau Invoice to the Latent Fingerprint Section in order that the evidence may be inventoried to the Property Bureau.

I hereby certify that I am a public servant of the County of Nassau, New York, and I am employed as a Latent Fingerprint Technician. This report was made by me in the normal course of my duties and I performed the fingerprint examination stated in the report. I understand that any false statements made herein are punishable as a Class A Misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

DATE 10/18/2004	SIGNATURE OFFICER PERFORMING EXAMINATION Det. E. Baehr	SERIAL NO. 5539	SECTION SUPERVISORS INITIALS D/Sgt @	COMMANDING OFFICER INITIALS D/Sgt
--------------------	---	--------------------	---	--------------------------------------

EXHIBIT B

1 March 17, 2005

2 you a fuller -- the full definition of the law
3 at the close of all the evidence.

4 And I'll call my first witness,
5 Police Officer Vara.

6 (The witness entered the Grand Jury
7 chamber.)

8 MS. PLOTKIN: If you would step into
9 the witness box, remain standing, raise your
10 right hand, face the Grand Jury foreperson and
11 be sworn in.

12 THE FOREPERSON: Do you swear that
13 the evidence you shall give to the Grand
14 Inquest upon this Complaint against Darryl
15 Coggins shall be the truth, the whole truth and
16 nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 MS. PLOTKIN: Please be seated.

19 THE WITNESS: (Complying.)

20 EXAMINATION BY

21 MS. PLOTKIN:

22 Q Officer Vara, if you would state your
23 name, spell your full name and give your rank,
24 shield and command for the record.

25 A Officer James Vara, J-A-M-E-S, V-A-R-A.

March 17, 2005

Shield number 2526, Third Precinct.

Q Officer Vara, how long have you been a member of the Nassau County Police Department?

A Seven-and-a-half years.

Q What is your present assignment?

A I'm assigned to the highway patrol bureau.

Q On October 9th, 2004, what was your assignment?

A I was assigned to the Third Precinct, post 318.

Q What was your specific assignment?

A Routine patrol.

Q I'll direct your attention again to October 9th, 2004, at approximately 4:30 in the morning.

Were you working on that date and time?

A Yes, I was.

Q What was your tour of duty?

A 1900 to 0700.

Q Can you tell the Grand Jurors whether you were in a marked or unmarked police car?

A Marked.

Q Were you in uniform or plain clothes?

March 17, 2005

A Uniform.

Q Were you working alone or with a partner?

A Alone.

Q Still keeping your attention on October 9th, 2004, at approximately 4:30, tell the Grand Jurors what, if anything, attracted your attention.

A I observed a black Mazda operating at a high rate of speed, approximately fifty-five miles an hour in a thirty-five mile an hour zone, westbound on Jericho Turnpike in New Hyde Park.

Q That's a public roadway that you observed the vehicle operating?

A Yes, it is.

Q Just so the record is clear, this is in the County of Nassau, State of New York?

A Yes.

Q It's your testimony that you observed a black Mazda traveling at a high rate of speed?

A Yes.

Q Did that vehicle bear the registration, New York registration of CRJ7395?

A Yes, it did.

Q Did you make an estimate as to the speed of that vehicle?

March 17, 2005

1
2 A Yes, I did, an independent speed
3 estimate, as well as a calibrated speed estimate
4 with my speedometer while I was pacing the vehicle.

5 Q With respect to your independent speed
6 estimate, what estimate did you arrive at?

7 A He was operating about fifty-five miles
8 an hour.

9 Q What was the speed zone in that area?

10 A Thirty-five.

11 Q Did you see the black Mazda pass a posted
12 speed sign?

13 A Yes.

14 Q That speed sign was what?

15 A Thirty-five miles an hour.

16 Q That was a visual estimate that you just
17 described?

18 A Yes.

19 Q How long did it take you to arrive at
20 that visual or make that estimate with respect to
21 the estimate?

22 A Approximately a half a mile.

23 Q You observed the vehicle for
24 approximately half a mile?

25 A Yes.

March 17, 2005

1
2 Q And you said you also made a calibrated
3 speed estimate?

4 A Yes.

5 Q Can you explain to the members of the
6 Grand Jury what that is?

7 A The police cars, the speedometers are
8 calibrated in police cars.

9 The records are maintained by the police
10 department so you know in the vehicles, the vehicles
11 are calibrated, so at that speed, that's the speed
12 that you're actually going.

13 Q Can you explain to the Grand Jurors how
14 you arrived at a calibrated speed estimate?

15 What do you do to arrive at that number?

16 A You drive behind the vehicle that you're
17 pacing for an estimated time, and that's how you
18 determine how fast that car is actually traveling.

19 Q You're observing your speedometer in the
20 process?

21 A Yes.

22 Q Is it called pacing?

23 A Yes.

24 Q Do you pace the vehicle?

25 A Yes.

March 17, 2005

1

2

Q How long did you pace the vehicle?

3

A Approximately half a mile.

4

Q Do you have any training in speed

5

estimation, Officer?

6

A Yes.

7

Q Are you certified?

8

A Yes.

9

Q Do you know your rate of accuracy?

10

A Plus or minus two miles an hour.

11

Q Did there come a time, Officer, that you

12

stopped the vehicle?

13

A Yes.

14

Q How is it that you stopped the vehicle?

15

A I turned on my emergency lights and

16

siren, and he pulled over to the right-hand side of

17

the road.

18

Q He complied immediately --

19

A Yes.

20

Q -- with the vehicle?

21

A Yes, right away.

22

Q Once the vehicle stopped, did you

23

approach the vehicle?

24

A Yes, I did.

25

Q How many occupants did you observe?

March 17, 2005

A Three.

Q Where were the occupants positioned?

A There was a driver, a passenger in the front seat, and a passenger behind the driver.

Q Did you approach the driver of the vehicle?

A Yes, I did.

Q What, if anything, did you notice with respect to the driver?

A I observed he had a strong odor of alcoholic beverage on his breath, glassy, bloodshot eyes and slurred speech.

Q Where were you in relation to the driver when you made these observations?

A I was right at his driver's window.

Q Was the window up or down?

A Down.

Q How would you describe the weather that night?

A It was clear, nice night.

Q Was it windy at all?

A No.

Q Did you ask the defendant for his license?

March 17, 2005

A Yes.

Q Did he provide anything?

A Yes, he did.

Q He provided a license?

A He provided a New York State driver's license.

Q Did that license contain a photograph?

A Yes.

Q Did you compare the characteristics on the photograph with the person seated in the driver's seat?

A Yes.

Q Were you confident that they were the same individual?

A Yes, I was.

Q What was the name of the individual on the license?

A Darryl Coggins.

Q Did he have a date of birth of January 25th, 1981?

A Yes.

Q Did you ask the defendant if he had been drinking?

A Yes, I did.

March 17, 2006

Q What, if anything, did he tell you?

A He said he had two Coronas.

JUROR: Can you just push the mike over a little bit.

THE WITNESS: Is this better?

JUROR: Yes. You speak a little low.

Q You had asked him if he had been drinking?

A Yes.

Q He had responded?

A He stated two Coronas.

Q Did you ask him where he was coming from?

A He stated he was picking up the passenger in the rear seat from Garden City Park.

Q What, if anything, happened next?

A I had asked him to exit the vehicle.

Q Did he exit the vehicle?

A Yes.

Q What, if anything, did you notice about the defendant when he exited the vehicle?

A He was staggering as he walked.

Q Where were you now in relation to the defendant?

1 March 17, 2005

2 A I backed up with him and we went up onto
3 the sidewalk.

4 Q Within a few feet of the defendant at
5 this point?

6 A About two feet.

7 Q How is the lighting in the area?

8 A Dark. Lighted roadway.

9 Q What happened then?

10 A I had administered standardized field
11 sobriety tests.

12 Q Can you tell the members of the Grand
13 Jury what standardized field sobriety tests are?

14 A Tests to determine -- it's a divided
15 attention test. It's to determine the person's
16 intoxication through alcohol or drug.

17 Q Have you had any training in the
18 recognition of intoxicated persons?

19 A Yes.

20 Q What is that training?

21 A It's done through the police academy.

22 Q How many DWI arrests or assists have you
23 made during your career?

24 A Well over a hundred.

25 Q Turning your attention again to the

March 17, 2005

standardized field sobriety tests, did you ask the defendant to perform any of these tests?

A Yes, I did.

Q Did you perform these tests?

A Yes.

Q Which test did you give?

A I did the one-legged stand and nine-step walk-and-turn.

Q With respect to the one-legged stand, what instructions did you give the defendant?

A They're advised to stand on one leg, the other leg approximately six inches off the ground, looking at the foot that's off the ground, and they're counting to thirty, using 1,000. They're not supposed to use their arms to balance or put their foot down. And if they put their foot down, to determine if they can listen to the examples that I gave them, and to put their foot down is to determine if they are intoxicated.

Q A demonstration of the test was given to the defendant?

A Yes, as instructions were given.

Q To the best of your recollection, how did the defendant perform?

March 17, 2005

A He performed with positive results,
meaning that there was alcohol present.

Q That was your opinion, based upon his
performance?

A Yes.

Q You said you had also given the nine-step
walk-and-turn?

A Yes.

Q What instructions were given with respect
to that test?

A It's to walk on a straight line nine
steps, looking at your feet, touch heel to toe,
touching feet heel to toe.

When you reach nine steps, to turn around
and I instruct how to turn around, and he's to walk
back the same way.

Q Was any demonstration provided for the
defendant?

A Yes, it was.

Q How did the defendant perform here?

A He performed positive results again.

Q Meaning?

A That alcohol was present.

Q Based upon your opinion?

March 17, 2005

A Yes.

Q Do you remember anything specifically with respect to his performance?

A No. I can't recall.

Q Officer, have you attended social functions where alcohol is served?

A Yes.

Q Have you observed people consuming alcohol at these functions?

A Yes.

Q Officer, based on your training and experience, as well as your personal experience and the defendant's performance on the standardized field sobriety tests, what, if any, opinion did you form as to the defendant's sobriety or intoxication on October 9th, 2004, at approximately 4:30?

A It was my opinion that he was intoxicated.

Q During the course of administering the standardized field sobriety tests, did anyone else arrive at the scene?

A My assistance officer, Officer Buonora.

Q Just so the record is clear, with respect to the defendant, your opinion as to the defendant's

March 17, 2005

intoxication, what did you base that opinion on,
what factors?

A On the odor of alcoholic beverage on his
breath, glassy, bloodshot eyes, as he was swaying
and staggering as he was out of his vehicle, and the
tests that I performed.

Q You had said during the course of the
standard field sobriety tests Officer Buonora had
arrived at the scene?

A He responded after, when I was -- when I
had just completed the test.

Q At the conclusion of the test, Officer
Buonora arrived?

A Yes.

Q How did he arrive at the scene?

A Via RMP.

Q What, if anything, happened when Officer
Buonora arrived at the scene?

A At that point, I had advised the
defendant that I was placing him under arrest. And
at that point, he became agitated, and he had
started to run eastbound on Jericho Turnpike.

Q When you say "agitated," can you tell the
members of the Grand Jury what you mean by that?

March 17, 2005

A He started asking, what's going on, you know, what are you guys doing here? This isn't fair.

And that's when he started to run.
That's when he ran.

Q Did you follow the defendant? Did you chase after him?

A Yes.

Q What was your proximity to the defendant while you were chasing him?

A Started out in close proximity, but he was a lot faster than me, so he ended up getting to the next block, and he ran northbound on Holland Avenue in Floral Park, and he ran northbound on Holland Avenue to the second driveway and he ran into the backyard.

Q What, if anything, did you notice with respect to the defendant's hands while this chase was in progress?

A As he was running, he was holding both of his hands to his left side.

Q If you could actually stand up and step down so the Grand Jurors can see.

A He was running like this.

March 17, 2005

(Indicating.)

He was holding both hands to his left side.

MS. PLOTKIN: If the record can reflect that Officer Vara has both hands placed on the left side of his body near his waistband.

A Yes.

Q And you said you chased him; a chase ensued?

A Yes.

Q At some point, you were a couple of feet from the defendant?

A Yes.

Q At all times, were you at least a couple of feet from the defendant?

A Like I said, it started out close, because he was a lot faster than me. He ended up, I'd say he was no further than ten feet away from me at any given point.

Q What, if anything, attracted your attention during the chase?

A He came to a fence at the driveway. He jumped over the fence, and as he jumped over the

March 17, 2005

fence, I heard a metal noise hitting concrete, and I looked down, and I saw an object laying on the driveway.

My focus was still towards him, towards the defendant.

My assisting officer stayed there at the scene, and I had run around, because I thought he was going to go back to the car. So I had run around to see, and when I saw he wasn't back at the car, I advised the two other occupants in the vehicle to stay there, and I ran to the next block, thinking that I could catch him running through the yards of the next block, but I was unable to.

Q Back to your testimony about a metal object hitting the concrete, where were you in relation to the defendant when you heard this sound and you heard this noise?

A I was at the fence.

Q And you were at the fence, and what was your proximity to the defendant in terms of footage?

A He was on the other side of the fence.

Q And you were directly on the opposite side?

A Yes.

March 17, 2005

1
2 Q Did you have the opportunity to look down
3 at all?

4 A I looked down and I saw an object, but my
5 attention was still at him, because he was my threat
6 at that point.

7 Q Actually, where was this metal object in
8 relation to the fence?

9 A It was on the opposite side of the fence
10 from where I was standing.

11 Q Did there come a time that you returned
12 to this fenced area and you actually observed the
13 object?

14 A Yes.

15 Q What, if anything, did you observe?

16 A It was a nine-millimeter handgun.

17 MS. PLOTKIN: Can I have these
18 marked for identification Grand Jury 1, 2, 3,
19 4, 5 and 6.

20 (Hanging.)

21 (The above-referred to photographs
22 were marked as Grand Jury Exhibits Number 1
23 through 6 for identification; 3/17/05.)

24 Q While the defendant was running, did you
25 issue any commands?

March 17, 2005

1
2 A I told him to stop.

3 Q Did you have your weapon drawn at this
4 point?

5 A No.

6 Q Did the defendant comply with your
7 command?

8 A No, he didn't.

9 Q What language did you use to command the
10 defendant to stop?

11 A English.

12 Q In English?

13 A Yes.

14 Q And what words did you use?

15 A "Stop. Stop running."

16 Q Officer, I'm showing you what has been
17 marked as Grand Jury number 1 for identification.

18 A Yes.

19 Q Do you recognize it?

20 A Yes.

21 Q What do you recognize it to be?

22 A This is where the stop took place on
23 Jericho Turnpike.

24 Q Is this a fair and accurate photograph of
25 where the stop took place?

March 17, 2005

A Yes.

MS. PLOTKIN: Grand Jury 1 for
identification is now in evidence.

(Hanging.)

(Grand Jury Exhibit Number 1,
previously marked for identification, was
received and marked as Grand Jury Exhibit 1 in
evidence.)

Q If you can display it for the members of
the Grand Jury as best you can, you can hold it up.

A I don't know if they'll be able to see
it.

Q If you can indicate where the defendant
approximately was stopped.

A Okay.
You could still see his vehicle. It's
the black vehicle. There's a police car. His
vehicle is right behind that police car, all the way
to the left of the picture.

Q And, Officer, I'm showing you what is now
Grand Jury number 2 for identification.

A Yes.

Q Do you recognize that?

A Yes.

March 17, 2005

Q What do you recognize that to be?

A This is Holland Avenue. He ran northbound and he ran the second house on the block, he ran in-between the first house and the second house.

Q Is that a fair and accurate photograph of where the defendant ran and the house that he entered onto the property of?

A Yes.

MS. PLOTKIN: Grand Jury number 2 for identification is now in evidence.

(Hanging.)

(Grand Jury Exhibit Number 2, previously marked for identification, was received and marked as Grand Jury Exhibit 2 in evidence.)

Q If you can display it for the members of the Grand Jury as best you can.

A (Complying.)

Q And indicate with your finger where the defendant was seen running.

A He ran up the sidewalk and in-between the two houses, down the driveway.

Q Officer, I'm now showing you Grand Jury

1 March 17, 2005

2 A You can barely make it out, but there's a
3 fence, a chain-link fence.

4 Q Can you describe how he scaled that
5 fence?

6 A He put his arms on the fence, on the top,
7 and his body went over it.

8 Q I'll now show you Grand Jury 4 for
9 identification.

10 Do you recognize that?

11 A Yes.

12 Q What do you recognize that to be?

13 A This is still the driveway that he ran
14 down and the fence that he jumped over.

15 Q Is that a fair and accurate photograph of
16 the driveway and the fence that the defendant was
17 seen at?

18 A Yes.

19 MS. PLOTKIN: That's now in evidence
20 as Grand Jury 4 in evidence.

21 (Handing.)

22 (Grand Jury Exhibit Number 4,
23 previously marked for identification, was
24 received and marked as Grand Jury Exhibit 4 in
25 evidence.)

1 March 17, 2005

2 Q And if you could display that for the
3 members of the Grand Jury.

4 A This is the driver's side that he ran
5 down.

6 This is the chain-link fence that he ran
7 over, and you can actually see the gun, like, on the
8 opposite side of the fence.

9 Q Officer, you're being shown Grand Jury
10 number 5 for identification.

11 A Yes.

12 Q Do you recognize that?

13 A Yes.

14 Q What do you recognize that to be?

15 A This is the fence and the driveway and
16 the gun laying on the opposite side of the fence.

17 Q Is that a fair and accurate photograph of
18 the driveway and the fence and the gun that -- I'll
19 ask you a follow-up question.

20 Did you have an opportunity to later
21 return to the scene and observe the weapon on the
22 driveway?

23 A Yes.

24 Q That's a fair and accurate photograph of
25 that?

1 March 17, 2005

2 A Yes, it is.

3 Q If that can be displayed for the members
4 of the Grand Jury.

5 A (Complying.)

6 Q And lastly, I'm showing you Grand Jury
7 number 6 for identification.

8 A Yes.

9 Q Do you recognize that?

10 A This is the gun that fell on the ground
11 when he jumped over the fence.

12 Q Is that a fair and accurate photograph of
13 the gun that you observed?

14 A Yes.

15 Q After the chase was suspended, you said
16 you returned to the driveway and actually observed
17 now the gun on the driveway floor?

18 A Yes.

19 Q And was Officer Buonora there at that
20 time?

21 A Yes, he was.

22 Q Mr. Vara, when was the next time you had
23 the opportunity to see the defendant?

24 A I saw him at the Third Precinct station
25 house.

March 17, 2005

Q What time was that, approximately?

A About 8:30 that night.

Q At that time, Officer, was he formally under arrest, the defendant?

A Yes, he was.

MS. PLOTKIN: I have no further questions for Officer Vara.

Any questions from the members of the Grand Jury?

Sir.

EXAMINATION BY

A JUROR:

Q How far behind him were you following him? How far were you behind him when you were following him, you know, when you were checking his speed?

A When I was checking his speed?

Q Yes.

A About five car lengths.

Q About five car lengths?

A Yes.

Q And how long of a chase did you have with him?

How long was the chase?

March 17, 2005

MS. PLOTKIN: You're referring to the foot chase after the field tests were concluded?

JUROR: Yes.

A In feet, you want feet?

Q In time.

A Time-wise?

Q Yes.

A Ten seconds, fifteen seconds at the most.

Q You gave up after --

A Well, like I said, he had jumped over the fence, and I thought he may return back to the vehicle and flee in the vehicle. And I ran -- I had gone back to the vehicle and secure the two occupants, told them to stay there, and when I saw that he wasn't there, I thought he may have come out on the other side of the fence -- I mean, the other street, seeing that that was the direction that he was running.

MS. PLOTKIN: Any other questions?

Sir.

EXAMINATION BY

A JUROR:

Q Where was the other officer while you

1 March 17, 2005

2 were chasing?

3 A He was with me. He was behind me.

4 Q So you both chased him on foot?

5 A Yes.

6 MS. PLOTKIN: Sir.

7 EXAMINATION BY

8 A JUROR:

9 Q Where was the defendant finally captured?

10 MS. PLOTKIN: Officer, I direct you
11 not to answer that question.

12 EXAMINATION BY

13 A JUROR:

14 Q Were the two other people in the car on
15 their own -- on their own honor staying there, no
16 one was guarding them?

17 A They were directed by me to stay there.

18 Q And they obeyed?

19 A They complied.

20 Q Okay.

21 MS. PLOTKIN: Sir.

22 EXAMINATION BY

23 A JUROR:

24 Q What was the time at which you first
25 observed him? What time was it?

1 **March 17, 2005**

2 **A** Approximately 4:30 in the morning.

3 **Q** 4:30 in the morning?

4 **A** Yes.

5 **Q** What time then were the pictures taken?

6 MS. PLOTKIN: Officer, I direct you
7 not to answer that.

8 **A** I don't know.

9 MS. PLOTKIN: Any other questions?

10 Sir.

11 EXAMINATION BY

12 A JUROR:

13 **Q** Was the defendant ever given any other
14 alcohol tests or blood analyzer test or anything
15 once he was arrested?

16 **A** No, because of the time frame, because
17 the stop was at 4:30 in the morning and he turned
18 himself in 8 o'clock that night.

19 MS. PLOTKIN: I would ask you to
20 disregard those remarks.

21 THE WITNESS: Okay.

22 **Q** 8 o'clock that night? I thought you said
23 eight in the morning.

24 **A** No, 8 p.m., that night, is when I
25 observed him at the Third Precinct.

34-

March 17, 2005

Q Okay.

MS. PLOTKIN: Yes.

EXAMINATION BY

A JUROR:

Q With relationship to the speed that he was traveling and the posted speed limit at that time, was that posted speed limit consistent or did it change?

A From when I observed him in the village of New Hyde Park, which is thirty-five miles an hour, at one point, he entered the village of Floral Park, which is also thirty-five, so from the time I observed him and the time that I stopped him, the speed limit was always thirty-five miles an hour on Jericho Turnpike.

MS. PLOTKIN: Yes.

EXAMINATION BY

A JUROR:

Q When you took him out of the car to give him the field sobriety tests, at any point, did you pat him down or any reason to inspect him?

Did you observe a bulge in his pocket?

A He had a football jersey, a very baggy football jersey on, so my eyes were on him at all

March 17, 2005

times. I saw -- my eyes were on his hands. I knew where his hands were.

So at that point, no, I didn't pat him down. But if, at any point, I would have put handcuffs on him, I would have patted him down, because that's just the routine.

I didn't see a bulging in his waistband at that point, because his jersey was too big to see a bulge from.

MS. PLOTKIN: Sir.

EXAMINATION BY

A JUROR:

Q Was he told he was under arrest?

A Yes.

Q Okay.

MS. PLOTKIN: Seeing no show of hands, then Officer Vara is excused with the thanks of the Grand Jury.

THE WITNESS: Thank you very much.

(The witness left the Grand Jury chamber.)

MS. PLOTKIN: I'll call my next witness in just a moment.

My next witness, ladies and

1 March 17, 2005

2 gentlemen, is Officer Buonora of the Third
3 Precinct.

4 (The witness entered the Grand Jury
5 chamber.)

6 MS. PLOTKIN: If you would step into
7 the witness box, remain standing, raise your
8 right hand, face the Grand Jury foreperson and
9 be sworn in.

10 THE FOREPERSON: Do you swear that
11 the evidence you shall give to the Grand
12 Inquest upon this Complaint against Darryl
13 Coggins shall be the truth, the whole truth and
14 nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 MS. PLOTKIN: Please be seated.

17 THE WITNESS: (Complying.)

18 EXAMINATION BY

19 MS. PLOTKIN:

20 Q Mr. Buonora, if you would state your full
21 name for the record, spell your full name, and then
22 give your rank, shield and command.

23 A Craig Thomas Buonora, B-U-O-N-O-R-A.

24 Q What is your rank, shield and command and
25 first name?

1 March 17, 2005

2 A C-R-A-I-G.

3 It's Police Officer, Third Precinct.

4 Shield 406.

5 Q How long have you been a member of the
6 Nassau County Police Department, Officer?

7 A Approximately eight years.

8 Q What is your present assignment?

9 A Presently, I'm assigned days in 316, New
10 Cassel.

11 Q Is that a patrol assignment?

12 A Yes, it's patrol.

13 Q Officer, I'll direct your attention to
14 October 9th of 2004, at approximately 4:40 in the
15 morning.

16 Were you working on that date and time?

17 A Yes.

18 Q What was your tour of duty?

19 A 1900 to 0700, 7 o'clock at night to
20 7 o'clock in the morning.

21 Q Were you working alone or with a partner
22 that night?

23 A I was working alone.

24 Q Were you in uniform or plain clothes?

25 A Uniform.

1 **March 17, 2005**

2 Q Did there come a time that you received a
3 radio transmission?

4 A Yes, I did.

5 Q Without telling the members of the Grand
6 Jury the contents of that transmission, what, if
7 anything, did you do in response?

8 A I went to assist a fellow officer to a
9 traffic stop.

10 Q Where exactly did you go to assist him?

11 A Jericho Turnpike and Holland in Floral
12 Park, I believe that is.

13 Q Just so the record is clear, that's in
14 Nassau County, State of New York?

15 A Yes.

16 Q You arrived in your patrol car?

17 A Yes.

18 Q That was a marked vehicle, we
19 established?

20 A Yes.

21 Q What, if anything, did you observe when
22 you arrived there?

23 A As I pulled my patrol car up behind the
24 other officer's patrol car, I observed him with the
25 person on the sidewalk.

1 March 17, 2006

2 Q Could you describe the person that the
3 officer was with?

4 A A gentleman, was a male black, roughly, I
5 guess, in his twenties.

6 Q Did you learn his name to be Darryl
7 Coggins?

8 A After the fact, yes.

9 Q How did you learn that?

10 A Through the other officer's
11 investigations, and he told me.

12 Q What, if anything, did you observe the
13 defendant do?

14 A As I pulled up, I observed the defendant
15 look at me, and then start pulling away from the
16 officer that was there, and then he took off running
17 up Holland.

18 Q Approximately what time did you arrive at
19 the scene?

20 A I'm not exactly sure of the time. I'm
21 sorr.

22 Q Is there anything that would refresh your
23 recollection?

24 A Yes, if you have the paperwork for it.

25 MS. PLOTKIN: I'll have you mark

1 March 17, 2005

2 this for identification, Grand Jury 7, crime
3 report. It's two pages.

4 (Hanging.)

5 (The above-referred to document,
6 crime report, was marked as Grand Jury Exhibit
7 Number 7 for identification; 3/17/05.)

8 Q I'm showing you what's been marked as
9 Grand Jury 7 for identification.

10 I ask you to look at that document and
11 see if it refreshes your recollection.

12 A I'll guess roughly about a quarter to
13 five in the morning.

14 Q It was around 4:45 --

15 A Yes.

16 Q -- to the best of your recollection --

17 A Yes.

18 Q -- you arrived at the scene?

19 A Yes.

20 Q Again, what did you observe the defendant
21 doing at that time?

22 A He was on the sidewalk with Officer Vara,
23 and as I pulled up, he looked over at me pulling up
24 with my cruiser and started pulling away from the
25 officer and then he started running away and ran up

1 March 17, 2005

2 | Holland.

3 Q When you say he looked over, what exactly
4 did he do?

5 A He started pulling away.

6 The officer, I guess, said something to
7 him and went to grab his arm, and the person started
8 pulling away from the officer, got free of him and
9 then took off running.

10 Q Were you in your vehicle when you
11 observed this?

12 A Yes.

13 Q Did there come a time you got out of your
14 vehicle?

15 A Yes. As he took off running.

16 Q Did you participate in the chase?

17 A As best I could.

18 Q Where were you in relation to Officer
19 Vara when the chase was in progress?

20 A I was coming out of my car on Jericho
21 Turnpike, actually should have looked when I got
22 out, but I got out of the car and started running up
23 towards Holland to catch up.

24 I caught up to Officer Vara, but
25 unfortunately not the subject.

March 17, 2005

Q How far away were you from the defendant during the course of the chase?

A Again, about six or seven feet.

Q At any given time?

A Yes.

Q What, if anything, attracted your attention during the course of the chase?

A As we got up the side street on Holland, the subject went in an alleyway and went to jump a fence.

I heard a noise as he went to jump the fence, which sounded like metal hitting the ground.

Officer Vara was in front of me, because he's a little lighter than me, I guess. And he kept after the subject. And I looked down to see what it was and found the gun there.

Q Were you able to observe it as a gun immediately?

A Once I looked at it, yes.

Q I'm showing you what is Grand Jury number 3 in evidence, Officer.

A Yes.

Q Do you recognize that?

A Yes, ma'am.

March 17, 2005

1
2 Q Is that the alleyway you observed the
3 defendant running up?

4 A Yes, it is.

5 Q If you can just display it for the Grand
6 Jury.

7 A (Complying.)

8 Q And Officer Buonora, I'm showing you
9 Grand Jury number 4 already in evidence.

10 A Yes.

11 Q Is that another view of the alleyway that
12 the defendant was seen running through?

13 A Yes. That's the gate he jumped over.

14 Q That's the fence that he jumped over?

15 A Yes.

16 Q And where were you in relation to the
17 defendant when he jumped over that fence,
18 approximately?

19 A Approximately, I was over towards the
20 back of the van here.

21 (Indicating.)

22 Q Again, Officer Buonora, Grand Jury number
23 5 in evidence --

24 A Yes.

25 Q -- do you recognize that?

March 17, 2005

1
2 A Yes. That's the gun.

3 Q That you observed?

4 A Yes, that I observed.

5 Q You said you detected a metal sound
6 hitting concrete?

7 A Yes.

8 Q Did you immediately look down?

9 A Once I got up there, I immediately looked
10 to see what it was.

11 Q Is that what you observed?

12 A Yes, that is.

13 Q Officer Buonora, did there come a time
14 that the gun that you observed on the concrete in
15 the alleyway was submitted to the Forensic Evidence
16 Bureau under FEB number 38704 and CR number
17 04-CR-082564 for testing?

18 A That's correct.

19 MS. PLOTKIN: People are having that
20 Forensic Evidence Bureau report, again, under
21 FEB number F-38704 and CR number 04-CR-082564
22 admitted into evidence as Grand Jury number 8
23 in evidence, and that is pursuant to Criminal
24 Procedure Law Section 190.30 subsection two.
25 It's a certified copy of a scientific report of

1 March 17, 2005

2 a public servant.

3 (Handing.)

4 (Forensic Evidence Bureau report was
5 received and marked as Grand Jury Exhibit 8 in
6 evidence; 3/17/05.)

7 MS. PLOTKIN: I'm now going to read,
8 in pertinent part. Again, this is a Forensic
9 Evidence Bureau report. It is dated October
10 9th, 2004. The defendant is named Darryl
11 Coggins. And the quantity and description of
12 the materials submitted is as follows: A gun,
13 a nine-millimeter Luger High Point
14 semiautomatic pistol, Model C, serial number
15 defaced. Ammunition in the magazine, an
16 eight-round capacity nine-millimeter Luger High
17 Point magazine containing the following, one
18 nine-millimeter Luger cartridge, another
19 nine-millimeter cartridge and a third
20 nine-millimeter cartridge.

21 And the analysis of that weapon is
22 as follows, the gun was tested with submitted
23 ammunition and is operable.

24 A chemical etching solution was
25 applied to the defaced serial number. The

1 March 17, 2005

2 following number -- actually, I'll leave it at
3 that, chemical etching solution was applied to
4 a defaced serial number.

5 It is signed by Detective Frank
6 Miller, and it is dated October 29th, 2004.

7 Q Officer Buonora, are you also aware that
8 the gun that you observed and was recovered and
9 submitted to the Forensic Evidence Bureau was also
10 analyzed for latent fingerprints?

11 A Yes.

12 Q It was submitted under CR number
13 204-CR-82564?

14 A Yes, ma'am.

15 MS. PLOTKIN: Again, this is coming
16 into evidence as Grand Jury number -- the last
17 one should be number 8. Change it to number 8.
18 The Forensic Evidence Bureau report was 8.
19 Change that in the record.

20 And now mark this as 9.

21 (Handing.)

22 (Latent Fingerprint Section report
23 was received and marked as Grand Jury Exhibit 9
24 in evidence; 3/17/05.)

25 MS. PLOTKIN: Grand Jury 9 is latent

1 March 17, 2005

2 fingerprint section report, also in evidence
3 pursuant to Section 190.30 subsection two of
4 the Criminal Procedure Law. It's also a
5 scientific report of a public official.

6 I'm now going to read, in pertinent
7 part, from the latent fingerprint report.

8 Bears case number 204-CR-82564. Subject of
9 examination, one magazine. The above evidence
10 was processed and evaluated and had no
11 identifiable latent impressions present.

12 This is signed by Detective E. Baehr
13 of the Forensic Evidence Bureau and it is dated
14 October 18th, 2004.

15 I have no further questions of
16 Officer Buonora.

17 Any questions from the Grand Jury
18 members?

19 Sir.

20 EXAMINATION BY

21 A JUROR:

22 Q When you arrived on the scene, did you
23 observe the defendant taking a field sobriety test?

24 A That part I didn't observe. I pulled up,
25 I believe, right after that.

March 17, 2005

MS. PLOTKIN: Just what you
observed, Officer

THE WITNESS: Yes.

MS. PLOTKIN: Sir.

JUROR: I wasn't able to hear very
well.

They weren't able to pick up the
latent fingerprints?

MS. PLOTKIN: I'll read again, in
pertinent part. This is what the report
indicates: The above evidence was processed
and evaluated and had no identifiable latent
impressions present.

JUROR: Okay.

Thank you.

MS. PLOTKIN: Sir.

EXAMINATION BY

A JUROR:

Q Did you say anything in this chase to
anybody?

A "Please stop."

Q That's it?

A That's about it.

I mean, running -- I was running, trying

March 17, 2005

to keep up with him. He's much faster than me, unfortunately.

MS. PLOTKIN: Did the defendant
comply at all?

THE WITNESS: Not at all.

MS. PLOTKIN: Yes.

EXAMINATION BY

A JUROR:

Q When the other officer returned back to the vehicle, where did you go?

A I stayed with the gun until, I believe, a Floral Park police officer relieved me so I could assist that officer.

EXAMINATION BY

MS. PLOTKIN:

Q And at any time, did you move the gun while you were, I guess, safeguarding the weapon?

A You would just safeguard it. You didn't touch it. You wait for crime scene.

MS. PLOTKIN: Seeing no show of hands, then Officer Buonora is excused with the thanks of the Grand Jury.

THE WITNESS: Thank you.

MS. PLOTKIN: Thank you, Officer.

March 17, 2005

THE WITNESS: You're welcome.

(The witness left the Grand Jury

MS. PLOTKIN: I'll check on the next witness.

(A short recess was taken.)

MS. PLOTKIN: It's my understanding the defendant wishes to testify. If you need a short bathroom break, please do so.

(A break was taken at this time.)

MS. PLOTKIN: Ladies and gentlemen,
this is the continued case of Darryl Coggins.

It's my understanding that the defendant now wishes to testify, and he'll now be called as a witness on his own behalf.

(The witness and his attorney entered the Grand Jury chamber.)

MS. PLOTKIN: Mr. Coggins, if you'd step into the witness box, and have a seat.

MR. COGGINS: (Complying.)

MS. PLOTKIN: Ms. Miller, if you'd please state your name and address for the record.

MS. MILLER: My name is Jennifer

1 March 17, 2005

2 Miller, with the law offices of Frederick K.
3 Brewington (phonetic), 50 Clinton Street,
4 Hempstead, New York 11550.

5 Good morning.

6 MS. PLOTKIN: Ms. Miller, are you
7 the attorney representing Darryl Coggins?

8 MS. MILLER: Yes, I am.

9 MS. PLOTKIN: Mr. Coggins, if you'd
10 please state your full name, spell your full
11 name, and give your address for the record.

12 MR. COGGINS: Darryl T. Coggins,
13 D-A-R-R-Y-L, T, C-O-G-G-I-N-S.

14 And I reside at 56 Woods Avenue,
15 Roosevelt, New York 11575.

16 MS. PLOTKIN: Mr. Coggins, do you
17 understand that this is a Grand Jury
18 investigation of an incident which occurred on
19 October 9th, 2004, at approximately 4:30 in the
20 morning, on Jericho Turnpike and Holland Avenue
21 in Floral Park?

22 MR. COGGINS: Yes.

23 MS. PLOTKIN: Mr. Coggins, do you
24 also understand that you're the possible target
25 of the investigation, that the crimes for which

1 March 17, 2005

2 you are being investigated include, but are not
3 limited to, two counts of criminal possession
4 of a weapon in the third degree, resisting
5 arrest, and driving while intoxicated?

6 MR. COGGINS: Yes.

7 MS. PLOTKIN: Do you also understand
8 that under the Constitutions of the United
9 States of America and New York State, you
10 cannot be forced to give testimony against
11 yourself before the Grand Jury, that you have
12 the right to remain silent and that your
13 silence cannot be held against you?

14 MR. COGGINS: Yes.

15 MS. PLOTKIN: Do you understand that
16 you have the right to talk to a lawyer before
17 giving any evidence or before signing a Waiver
18 of Immunity?

19 MR. COGGINS: Yes.

20 MS. PLOTKIN: Have you talked to
21 your lawyer about testifying before the Grand
22 Jury today?

23 MR. COGGINS: Yes.

24 MS. PLOTKIN: If you'd please state
25 the name of your attorney and give the location

1 March 17, 2005

2 of her office.

3 MR. COGGINS: Fred K. Brewington.

4 MS. PLOTKIN: Where is

5 Mr. Brewington's office located?

6 MR. COGGINS: 50 Clinton Avenue.

7 MS. PLOTKIN: And that is in?

8 MR. COGGINS: Hempstead.

9 MS. PLOTKIN: Is a representative of
10 Mr. Brewington's office now present with you in
11 the Grand Jury?

12 MR. COGGINS: Yes.

13 MS. PLOTKIN: It's your
14 understanding that she's of counsel to
15 Mr. Brewington's firm?

16 MR. COGGINS: Yes.

17 MS. PLOTKIN: After speaking with
18 your lawyer, is it your request to freely and
19 voluntarily testify and give evidence to the
20 Grand Jury concerning this investigation?

21 MR. COGGINS: Yes.

22 MS. PLOTKIN: Has anyone forced you
23 to come here today?

24 MR. COGGINS: No.

25 MS. PLOTKIN: Do you understand that

1 March 17, 2005

2 before testifying before the Grand Jury, you're
3 required to sign a piece of paper called a
4 Waiver of Immunity?

5 MR. COGGINS: Yes.

6 MS. PLOTKIN: Do you have that
7 Waiver of Immunity with you?

8 MR. COGGINS: Yes.

9 MS. PLOTKIN: I'd ask that that be
10 marked for identification as Grand Jury 10.

11 (Hanging.)

12 (The above-referred to document,
13 Waiver of Immunity, was marked as Grand Jury
14 Exhibit Number 10 for identification; 3/17/05.)

15 MS. PLOTKIN: Mr. Coggins, has your
16 attorney explained to you the Waiver of
17 Immunity?

18 MR. COGGINS: Yes.

19 MS. PLOTKIN: Ms. Miller, have you
20 explained the Waiver of Immunity to your
21 client?

22 MS. MILLER: Yes, I have.

23 MS. PLOTKIN: Mr. Coggins, do you
24 understand that you have the right to have your
25 attorney here with you in the Grand Jury to

1 March 17, 2005

2 advise you after you have signed and sworn to
3 this Waiver of Immunity?

4 MR. COGGINS: Yes.

5 MS. PLOTKIN: Do you understand what
6 this Waiver of Immunity means?

7 MR. COGGINS: Yes.

8 MS. PLOTKIN: The Waiver of Immunity
9 has been produced.

10 Do you understand that if you sign
11 the Waiver of Immunity, anything you say can be
12 used against you?

13 MR. COGGINS: Yes.

14 MS. PLOTKIN: Do you understand
15 everything that I've told you so far?

16 MR. COGGINS: Yes.

17 MS. PLOTKIN: Has anyone made any
18 threats or promises to force you to appear
19 before the Grand Jury?

20 MR. COGGINS: No.

21 MS. PLOTKIN: Has anyone promised
22 you anything with respect to what action the
23 Grand Jury is going to take in this case?

24 MR. COGGINS: No.

25 MS. PLOTKIN: Do you still wish to

1 March 17, 2005

2 testify and waive your immunity in this action?

3 MR. COGGINS: Yes.

4 MS. PLOTKIN: Do you have any
5 questions you want to ask me?

6 MR. COGGINS: No.

7 MS. PLOTKIN: Foreperson, I ask that
8 the oath administered to all witnesses now be
9 given.

10 THE FOREPERSON: Do you swear that
11 the evidence you shall give to the Grand
12 Inquest upon this Complaint against Darryl
13 Coggins shall be the truth, the whole truth and
14 nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 MS. PLOTKIN: Mr. Coggins, I'm
17 showing you what is Grand Jury number 10 for
18 identification, which is your Waiver of
19 Immunity.

20 I'll ask you if your signature
21 appears on this document by the number one.

22 THE WITNESS: Yes.

23 MS. PLOTKIN: If you now wish to
24 waive your immunity and testify before this
25 Grand Jury, I'd ask you to sign beside number

1 March 17, 2005

2 two.

3 THE WITNESS: (Complying.)

4 MS. PLOTKIN: Again, to the
5 foreperson --

6 Mr. Coggins, I'd ask that you rise
7 again and that the oath be administered.

8 THE FOREPERSON: Do you swear to the
9 truth of the statements contained in your
10 Waiver of Immunity?

11 THE WITNESS: Yes, I do.

12 MS. PLOTKIN: Do you swear that your
13 signature appears next to the numbers one and
14 two on the Waiver of Immunity?

15 THE WITNESS: I do.

16 MS. PLOTKIN: You can be seated.

17 THE WITNESS: (Complying.)

18 EXAMINATION BY

19 MS. PLOTKIN:

20 Q What is your name?

21 A Darryl Coggins.

22 Q Where do you live?

23 A 56 Woods Avenue, Roosevelt, New York

24 11575.

25 MS. PLOTKIN: The Waiver of Immunity

1 March 17, 2005

2 is now in evidence as Grand Jury number 10.

3 (Hanging.)

4 (Grand Jury Exhibit Number 10,
5 previously marked for identification, was
6 received and marked as Grand Jury Exhibit 10 in
7 evidence.)

8 Q Prior to being sworn in as a witness, I
9 asked you a series of questions, and you gave a
10 series of answers, Mr. Coggins; is that true?

11 A Yes.

12 Q Now that you're under oath, do you swear
13 that your answers to all my previous questions were,
14 in fact, the truth?

15 A Yes.

16 Q I'll ask you now to please tell the Grand
17 Jury your statement of events of October 9th, 2004,
18 at approximately 4:30 in the morning in the vicinity
19 of Jericho Turnpike and Holland Avenue in Floral
20 Park.

21 If, at any time, just so you know, you
22 wish to consult with your attorney, you have the
23 opportunity to step outside and speak with her.

24 A Okay.

25 Q Thank you, sir.

1 March 17, 2005

2 A Me and one of my friends, Aaron Simmons,
3 was going to another friend's house for a gathering
4 in Garden City Park, and the party was over around
5 1 o'clock. That's the time we arrived there.

6 So we decided we was going to get
7 something to eat from our local diner. And we was
8 driving down Jericho Turnpike and getting ready to
9 go to the Cross Island Parkway.

10 And no longer did I see, I look across
11 and I see an officer making a U-turn, got behind me,
12 pulled me over.

13 I asked him once I got out of the car
14 what am I being pulled over for. Not once did he
15 ever say what it was for.

16 He said, relax, sit there, give me your
17 license.

18 He returned to his car, came back. He
19 said to step out of the car.

20 And I kept asking him what am I being
21 pulled over for. Once again, no response.

22 So I get out of the car. He gave me the
23 breathalyzer test. I take that. He started going
24 through the procedures of all the other tests, and
25 kept asking him, you know, what am I being pulled

1 March 17, 2005

2 over for. No response once.

3 Next thing you know, he started to call
4 up a backup, and that's when I turned my head, like,
5 you trying to lock me up for what.

6 And he was, like, you know, don't turn
7 your back on me. What are you doing.

8 I was, like, you don't have to grab me,
9 because when I turn sideways, he grabbed me, like,
10 you know, what are you doing.

11 I just said, you don't have to grab me.

12 As soon as I said that, he was, I'll do
13 more than that.

14 So he went to grab again, and I just
15 pulled away and I ran. And all I heard him say was,
16 "Shoot him in the back, shoot him in the back."
17 Talking to another, a police officer. And I mean,
18 my intentions were to stop running, because I do
19 have a two-year-old daughter, but once I'm hearing
20 "Shoot him in the back," there's no way.

21 So I guess they put out --

22 Q Don't speculate, sir. Just your
23 rendition of the events.

24 A You know, I ran. I seen the cab. I got
25 in the cab. I took a cab home.

March 17, 2005

The officers were already at my house,
but I wasn't there when they got there.

Then they questioned my fiancée, say
because she came to the door. First they started,
Darryl Coggins was in a serious accident and --

Q Actually, would you confine your events
to approximately 4:30 in the morning on Jericho
Turnpike and Holland Avenue, which is really the
basis of this investigation.

A Okay.

I'm sorry.

Q That's all right.

Anything else you wish to add?

A No.

That's it.

Q I'll ask you a few additional questions
myself.

A Okay.

Q It's your testimony today that you had
been to a party in the Garden City Park area?

A Well, I was going, but when we arrived,
it was over.

Q So you never attended a party that
evening?

March 17, 2005

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A No.

Q And did you have anything to drink that evening?

A Yes.

Q What did you have to drink?

A I had a Corona.

Q That's a beer?

A Yes.

Q Did you have more than one?

A No. I'm not too sure.

Q You don't remember exactly, but at least one Corona beer?

A Yes.

Q And it's your testimony here today that you had missed the party?

A Yes.

Q And you were on Jericho Turnpike heading westbound towards, I guess, Queens?

A Yes.

Q And you were in the car with two of your friends?

A Yes.

Q And were you driving in excess of the speed limit at that time, sir?

March 17, 2005

A I'm sure I was doing the speed limit. I was not speeding. I'm not a speeder.

Q Do you recollect what speed you were traveling at?

A No more than forty.

Q And the posted speed limit in the village, are you aware, is thirty-five miles an hour?

A Okay.

Q Are you aware of that?

A No.

Q Do you recall passing any signs?

A No.

Q There came a time that you were stopped by a member of the Nassau County Police force?

A Yes.

Q You were asked for your license?

A Yes.

Q And you provided your license?

A Yes.

Q Which had a picture I.D., as well?

A Yes.

Q And you were asked where you were coming from by the officer?

March 17, 2005

1

2

A Yes.

3

4

Q And I think you said you had picked up a friend in Garden City?

5

A Garden City Park.

6

7

Q And you also told the officer that you know, at least had some Corona beers that night?

8

A I don't remember that.

9

Q You don't recall that?

10

A No.

11

12

13

14

Q It's your testimony here today that some standard field sobriety test or tests to determine any impairment by alcohol were administered by the officer?

15

A Yes.

16

Q You took those tests?

17

A Yes.

18

19

20

Q At some point, you're aware that another Nassau County police officer arrived on the scene for backup?

21

A I seen him when I started to run.

22

23

Q So it's your testimony that you did run away from the scene?

24

A Yes.

25

Q And, in fact, you ran away from the scene

March 17, 2005

when Officer Vara told you you were being placed
under arrest for driving while intoxicated?

MS. MILLER: Objection.

Can we step outside a moment?

MS. PLOTKIN: Mr. Coggins, why don't
you step outside for a moment.

And this will be continued.

(The Assistant District Attorney,
the attorney and the defendant left the room.)

(A break was taken at this time.)

MS. PLOTKIN: Ladies and gentlemen,
this is going to be continued, the case against
Darryl Coggins.

I ask for you to remain in the Grand
Jury room for another few minutes.

(A short recess was taken.)

MS. PLOTKIN: We'll step out of the
room with juror number eleven.

(The following ensued outside the
Grand Jury chamber:)

MS. PLOTKIN: I'm here present with
Grand Juror number eleven.

He advised me this morning that he
knows a witness in the case against Darryl

1 March 17, 2005

2 Coggins.

3 Is that correct, sir?

4 THE JUROR: Correct.

5 MS. PLOTKIN: And I just wanted to
6 ask Grand Juror number eleven if you feel you
7 can be fair and impartial in deciding the case
8 before you now, or if you believe it would be
9 more appropriate if you'd like to be excused.

10 THE JUROR: Well, I haven't -- you
11 know, the case just began. I haven't -- you
12 know, we're just getting into it, not all the
13 evidence has been presented. So at this point,
14 you know, I would say yes, I can be fair.

15 MS. PLOTKIN: Okay.

16 THE JUROR: But if there comes a
17 point where I think that I couldn't be fair,
18 then I'll let you know.

19 MS. PLOTKIN: But at this point, you
20 feel you can be fair and impartial?

21 THE JUROR: Yes.

22 MS. PLOTKIN: Apart from the fact
23 that you do know a witness involved in this
24 case?

25 THE JUROR: Yes. The gentleman I

1 March 17, 2005

2 was speaking to in the hallway is, in fact,
3 going to be one of the witnesses. I didn't
4 discuss with him, you know, what was going on
5 in here.

6 MS. PLOTKIN: I just wanted to
7 clarify and just appreciate that you brought
8 that to my attention.

9 THE JUROR: Thank you.

10 (Back in the Grand Jury chamber:)

11 MS. PLOTKIN: This is the continued
12 case of the People of the State of New York
13 versus Darryl Coggins.

14 I'm going to recall the defendant
15 who is testifying at present.

16 (The defendant and his attorney
17 entered the Grand Jury chamber.)

18 MS. PLOTKIN: Mr. Coggins, if you
19 would step back into the witness box. You can
20 be seated.

21 THE WITNESS: (Complying.)

22 MS. PLOTKIN: And I just remind you
23 that you are still under oath from this
24 morning.

25 THE WITNESS: Okay.

March 17, 2005

EXAMINATION BY

MS. PLOTKIN:

Q I'll ask you a few additional follow-up questions, Mr. Coggins.

It's your testimony, based on your testimony this morning, you did not -- you were not told that you were under arrest by Officer Vara; is that correct?

A Yes.

Q It is your testimony, however, that you did run away from the scene?

A Yes.

Q And, in fact, you ran down Jericho Turnpike?

A Yes.

Q And you jumped over a fence, as well; is that true?

A Yes.

Q Mr. Coggins, in the course of running down Jericho Turnpike and, actually, at the point that you did jump over a fence, is it true that a pistol dropped from your waistband?

A No.

Q So did you have a pistol on your person

March 17, 2005

at the time?

A No.

Q Did you have any kind of weapon on your person at the time?

A No.

Q So it's your testimony that you had no weapon on you whatsoever?

A Yes.

MS. PLOTKIN: I have nothing further of this witness.

Any questions from the Grand Jury members?

EXAMINATION BY

A JUROR:

Q Could you tell me what you were wearing?

A I had a brown jersey and I believe some black jeans.

Q A brown jersey?

A A brown jersey.

Q And black jeans?

A Black jeans.

Q Were you wearing a jacket of any kind?

A No.

Q No?

March 17, 2005

A No.

EXAMINATION BY

MS. PLOTKIN:

Q Was it a football jersey, sir?

A No.

Actually, I think it was. I'm not sure.

I'm not sure. I'm sorry.

MS. PLOTKIN: Sir.

EXAMINATION BY

A JUROR:

Q When you were pulled over and removed from the car, did the officer give you a sobriety test?

A Yes.

Q What kind of test did he give you?

A He made me breathe into the -- I don't know the correct name for it -- the machine, and it didn't work at first, he said. He went back to his car and did it again, and then he had me count to thirty on one foot, touch my nose, things like that.

Q How did you perform on those?

A I did them all. I did every test he gave me. And he still insisted -- he went to call for backup and that's when I got nervous.

March 17, 2005

MS. PLOTKIN: Yes.

EXAMINATION BY

A JUROR:

Q What time did you say you were going to the party?

A We were going -- I believe we left my father's cocktail lounge around 12:30, 1 o'clock. And we sat around at Jarvon's house for a few hours.

EXAMINATION BY

A JUROR:

Q When you were pulled over, could you tell me what was the condition of the day, what time of the day it was?

A It was early morning, early Sunday morning.

Q Was it light or dark out?

A It was dark.

Q Dark?

A Yes.

Q Okay.

MS. PLOTKIN: Ma'am.

EXAMINATION BY

A JUROR:

Q Why did you run?

March 17, 2005

A When the officer grabbed me.

Well, after we did the test, he called for backup, I kind of turned my head to him, like, in disbelief, and I asked him, are you gonna lock me up.

And when I went to turn, that's when he grabbed my arm. And I asked him, you don't have to grab me like that.

And he said, you know, I'll do more than that.

And he grabbed me again, and I ran.

Q But why did you run?

A Scared. I mean, I'm from a town, Roosevelt. The majority is gangs. I mean, I can't -- I can count on one hand how many times I get pulled over, because I'm coming from the gym or work, just, like, they label any African American in Roosevelt as a gang member and arrest me.

MS. PLOTKIN: I would ask you to confine your testimony to the events of the day.

THE WITNESS: I'm sorry.

MS. PLOTKIN: That's all right.

EXAMINATION BY

March 17, 2005

MS. PLOTKIN:

Q Just so your testimony is clear, you ran because you were scared?

A Yes.

Q And you did not run because you knew you had a weapon on your person?

A No.

Q And because the likelihood, if you were under arrest, you would be patted down?

A Yes.

MS. PLOTKIN: Okay.

Yes.

EXAMINATION BY

A JUROR:

Q When you ran, how did you run? Was it, you know, were you leaning to one side, were you running straight?

A Well, the officer was on the right of me, and I had to go around him. He grabbed me and I put my arm up and went around him. I ran straight. So I -- to, I believe, the first corner, and I made a left and from there, I don't know. I don't know anything about the area.

Q Were you running regular?

March 17, 2005

A Yes.

MS. PLOTKIN: Sir.

EXAMINATION BY

A JUROR:

Q Were you aware that the officer was behind you when you were running.

A I never turned around.

Once he said, "Shoot him in the back," I never turned around.

MS. PLOTKIN: Ma'am.

EXAMINATION BY

A JUROR:

Q Where were your hands when you were running?

A In front, I believe. In front.

Q Front where on your body?

A Yes.

Q Where on your body?

MS. PLOTKIN: Were they touching your body?

A No.

I'm sorry, they were in front of me, like, I'm running, to keep my balance.

MS. PLOTKIN: Yes.

March 17, 2005

EXAMINATION BY

A JUROR:

Q You knew this was a police officer,
correct?

A Yes, so he said.

Q So can I ask what you were afraid of?

MS. PLOTKIN: Let me see if I can
put that into a different question.

EXAMINATION BY

MS. PLOTKIN:

Q The police officer, the arresting officer
was in uniform?

A Yes.

Q He identified himself as a member of the
Nassau County Police Department?

A Yes. He had a uniform. He didn't say he
was Nassau County.

Q There was a police car in proximity which
you saw?

A Yes.

Q He activated his lights and sirens
initially upon stopping you on Jericho Turnpike?

A Yes.

Q He told you that he was going to

March 17, 2005

administer tests called standard field sobriety tests, because they relate to possible alcohol intoxication?

A He never said that.

Q He did tell you, at some point, you were under arrest at the conclusion of the test?

A No.

Q He never told you you were under arrest?

A No.

MS. PLOTKIN: Does that in any way answer your question, sir?

JUROR: Yes.

MS. PLOTKIN: Sir.

EXAMINATION BY

A JUROR:

Q Were you ever under arrest?

A No.

Q No?

A No.

MS. PLOTKIN: Actually, I'm going to ask you not to respond to that question.

Your testimony was you were never told you were under arrest?

THE WITNESS: Yes.

March 17, 2005

MS. PLOTKIN: Yes.

EXAMINATION BY

A JUROR:

Q Did you have any concerns about the two people that were in your car?

MS. PLOTKIN: Again, probably out of the scope of Mr. Coggins' knowledge.

A That's correct.

Q Did you say anything to them at any point?

A Once I got out of the car and did the test, like I said, again, he grabbed me. I ran.

MS. PLOTKIN: Then seeing no show of hands, the witness is excused with the thanks of the Grand Jury.

The defendant is excused.

(The defendant and his attorney left the Grand Jury chamber.)